

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NST GLOBAL, LLC, d/b/a SB TACTICAL,

Plaintiff,

v.

SIG SAUER, INC.,

Defendant.

Case No. 1:19-cv-00121-CFC

**DECLARATION OF JOHN BRASSEUR IN SUPPORT OF
DEFENDANT SIG SAUER, INC.'S MOTION TO TRANSFER**

I, John Brasseur, declare pursuant to 28 U.S.C. § 1746, that:

1. My name is John Brasseur. I am making this Declaration individually and as the corporate representative of SIG Sauer, Inc. ("SIG Sauer").

2. I am over the age of 18, and am of good health and sound mind to make this declaration in support of SIG Sauer's Motion to Transfer. I have personal knowledge of the matters stated herein.

My Role at SIG Sauer

3. I am employed by SIG Sauer as Vice President of Product Management. I work at SIG Sauer's headquarters in Newington, NH.

4. I have been employed by SIG Sauer since 2010. I began as Project Manager, where I worked with the engineering staff on the launching of new products onto the production floor. At the end of 2012, I was promoted to Director of Engineering Operations. In that role, I managed engineers, drafters, project managers, planners, and test technicians to oversee the

project management of all firearms and accessories from concept through manufacturing first article approval.

5. In 2014, I became the Director of Product Management, and was elevated to Vice President of Product Management earlier this year. As head of product management, I oversee SIG Sauer's firearms and ammo product divisions of pistols, rifles, ammunition, and firearm accessories. Accessories include the Accused Products in this lawsuit, which I understand are certain models of SIG Sauer's Pivoting Contour Brace, which is a type of arm brace used to brace a firearm to a shooter's forearm.

Background of SIG Sauer

6. SIG Sauer's corporate headquarters is located at 72 Pease Boulevard, Newington, New Hampshire 03801, on the site of the former Pease Air Force Base. The Newington, NH headquarters is a 206,000 sq. ft. state-of-the-art facility, where, in addition to the corporate offices, SIG Sauer designs, manufactures and sells firearms and firearms accessories.

7. In addition to the Newington, NH headquarters, SIG Sauer has four other facilities in New Hampshire: the SIG Sauer Academy ProShop, in Epping, NH, where the complete line of SIG Sauer pistols, rifles, ammunition, silencers, electro-optics, airguns and accessories are showcased, facilities in Dover, NH and Portsmouth, NH, as well as a facility in Exeter, NH, where SIG Sauer had been based until it moved its corporate headquarters and manufacturing operations to the larger Newington facility in 2013. Since then, the Exeter, NH facility has been used by SIG Sauer for research and development.

8. SIG Sauer has almost 1700 employees in New Hampshire.
9. SIG Sauer's only business locations outside of New Hampshire are an electro-optics department in Oregon, and an ammunitions department in Arkansas, neither of which has any involvement with the Accused Products.

The Accused Products

10. All of the Accused Products were designed at SIG Sauer's Newington and Exeter, NH facilities, and are assembled, shipped, and sold from the Newington NH facility.
11. SIG Sauer designed the Accused Products, but contracts with a few outside vendors to fabricate certain components. Those vendors are located in Rochester, NY, India, and Hungary. The Rochester supplier also partially assembles some models of the Accused Products. The vendors ship what they have made to SIG Sauer's facility in Newington, NH, where they are assembled into finished Accused Products, and then sold and shipped from Newington.
12. The personnel involved in the design of the Accused Products and their roles and locations are as follows (I have listed them in alphabetical order, by last name):
 - a. Christopher D'Alfonso, Design Engineer, at SIG Sauer's R&D facility in Exeter, NH;
 - b. Bryan Dustin, Design Engineer, also at the R&D facility in Exeter, NH;
 - c. Patrick Hanley, Product Manager, Rifles, at SIG Sauer's headquarters in Newington, NH;
 - d. Mark Kimball, Design/Drafter, at the R&D facility in Exeter, NH;
 - e. Luke Morenz, Mechanical Engineer, at the R&D facility in Exeter, NH;
 - f. Scott Shinkle, Industrial Designer, at the R&D facility in Exeter, NH; and

g. John Wilson, an outside consultant, who is based in East Waterboro, Maine. I understand that East Waterboro, ME is just over 60 miles from the federal courthouse in Concord, NH.

13. SIG Sauer's documents and physical evidence, including designs, prototypes, and physical samples of the Accused Products, are maintained in New Hampshire, at either the Newington or Exeter facilities. The location where the Accused Products are assembled and shipped is at the Newington facility.

SIG Sauer's Business Relationship with Plaintiff

14. In 2013, SIG Sauer entered into a business relationship with plaintiff NST Global, LLC d/b/a SB Tactical ("SB Tactical"), in which SIG Sauer agreed to sell stabilizing arm braces manufactured by SB Tactical. Under that arrangement, SB Tactical delivered completed braces to SIG Sauer at its Newington, NH facility. SIG Sauer maintained the inventory in Newington, NH, and handled all the sales of those products.

15. SIG Sauer entered into two distribution agreements with SB Tactical. The first agreement took effect on March 1, 2013, with an expiration date of August 1, 2016. A copy of that agreement, entitled "Executive Distribution Agreement between SB Tactical, LLC and Sig Sauer, Inc.," is attached as Exhibit A. That agreement contained a Florida choice of law provision (Section 5.2), and provided that any disputes arising out of that agreement would be resolved in a Florida court (Section 5.3).

16. Shortly before the first agreement was set to expire, SB Tactical and SIG Sauer entered into a new distribution agreement, effective June 1, 2016, for a one-year term. A copy of that Distribution Agreement is attached as Exhibit B. This agreement provided that New Hampshire law would apply to any disputes arising out of the agreement (Section 10.2), and that

New Hampshire courts would have exclusive jurisdiction over those disputes (Section 10.3). As I have explained below, in June 2016, SB Tactical's operations were located at a commercial/ industrial building in Manchester, NH, so agreeing to resolve any disputes in a New Hampshire court made sense.

17. While at the beginning of the SB Tactical-SIG Sauer distribution relationship, the SB Tactical products had sold well, SB Tactical failed to update or improve their products, with the result that sales began to fall off dramatically. As a result, when the 2016 agreement came up for renewal in June 2017, SIG Sauer decided not to renew, and instead to design its own products. Some of the products SIG Sauer designed are now the Accused Products in this lawsuit.

18. When SIG Sauer and SB Tactical were doing business together, SIG Sauer personnel involved in that relationship included:

- a. Myself, John Brasseur, based at SIG Sauer's headquarters in Newington, NH;
- b. Patrick Hanley, Product Manager, also based in Newington, NH; and
- c. Paul Harper, Buyer, also based in Newington, NH.

19. In addition, Jeffery Creamer, who was Director, Product Management at SIG Sauer's Newington, NH facility until the end of 2015, was involved in the SIG Sauer-SB Tactical business relationship on SIG Sauer's behalf until his departure. Mr. Creamer left SIG Sauer to work for SB Tactical.

20. At the same time Mr. Creamer left SIG Sauer to join SB Tactical, another senior SIG Sauer employee, Amy Pevear, who had been SIG Sauer's Director of Marketing Communications, left to go work for SB Tactical. I understand that Mr. Creamer is now President of SB Tactical and Ms. Pevear is SB Tactical's Vice President of Marketing.

21. Soon after Mr. Creamer and Ms. Pevear left SIG Sauer to join SB Tactical, SB Tactical set up operations in New Hampshire, in a commercial/industrial building located at 566 Harvey Road, Manchester, NH 03103. The federal courthouse in New Hampshire is located in Concord, NH, which is just over 20 miles from SB Tactical's operations in Manchester.

22. Once Mr. Creamer and Ms. Pevear left SIG Sauer to go work for SB Tactical, Mr. Creamer, based in New Hampshire, became SIG Sauer's primary point of contact at SB Tactical. To my knowledge, SIG Sauer never dealt with anyone at SB Tactical in Florida.

23. I understand that both Mr. Creamer and Ms. Pevear continue to reside in New Hampshire.

24. Once SB Tactical established its operations in Manchester, NH in 2016, during the time when SIG Sauer was doing business with SB Tactical, whenever SIG Sauer needed to return a defective SB Tactical product, SIG Sauer sent it to SB Tactical at their Manchester, NH facility.

SIG Sauer's Lack of Contacts with Delaware

25. SIG Sauer maintains no place of business in Delaware.

26. SIG Sauer has no distributors or dealers located in Delaware.

27. SIG Sauer does not ship any products to wholesale customers or distributors in Delaware.

28. While an individual Delaware resident could purchase certain SIG Sauer products (not including firearms) through SIG Sauer's website, any such orders would be filled at SIG Sauer's Newington, NH facility.

29. According to SIG Sauer's HR department, there are three employees and one regular outside consultant who list Delaware residential addresses in their personnel files. None

of these employees or the consultant have any involvement with the Accused Products. Two of the employees work at SIG Sauer's headquarters in Newington, NH, and the consultant primarily works at SIG Sauer's ammunition facility in Arkansas, and occasionally in Newington. The remaining employee works in law enforcement sales, *i.e.*, sales to police departments, and is responsible for a multi-state sales territory, including Delaware. None of these employees maintain a SIG Sauer office in Delaware.

30. To my knowledge, and to the knowledge of other employees at SIG Sauer, SIG Sauer has never been sued in Delaware, other than this lawsuit, and SIG Sauer has never filed a lawsuit in Delaware.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 25, 2019, at Newington, New Hampshire.



John Brasseur
Vice President of Product Development,
SIG Sauer, Inc.

CERTIFICATE OF SERVICE

I, Helena C. Rychlicki, Esquire, certify that, on March 27, 2019, a copy of the *Declaration of John Brasseur in Support of Defendant SIG Sauer, Inc.'s Motion for Transfer to the District of New Hampshire* was served via electronic notification on those individuals who receive CM/ECF notices in this case.

/s/ Helena C. Rychlicki
Helena Rychlicki (DE No. 3996)